

SSB 6500 - S AMD 117

By Senator Fraser

1 Strike everything after the enacting clause and insert the
2 following:

3
4 "Sec. 1. RCW 72.09.015 and 2009 c 521 s 165 are each amended to
5 read as follows:

6 The definitions in this section apply throughout this chapter.

7 (1) "Adult basic education" means education or instruction
8 designed to achieve general competence of skills in reading, writing,
9 and oral communication, including English as a second language and
10 preparation and testing services for obtaining a high school diploma
11 or a general equivalency diploma.

12 (2) "Base level of correctional services" means the minimum level
13 of field services the department of corrections is required by statute
14 to provide for the supervision and monitoring of offenders.

15 (3) "Community custody" has the same meaning as that provided in
16 RCW 9.94A.030 and also includes community placement and community
17 supervision as defined in RCW 9.94B.020.

18 (4) "Contraband" means any object or communication the secretary
19 determines shall not be allowed to be: (a) Brought into; (b)
20 possessed while on the grounds of; or (c) sent from any institution
21 under the control of the secretary.

22 (5) "Correctional facility" means a facility or institution
23 operated directly or by contract by the secretary for the purposes of
24 incarcerating adults in total or partial confinement, as defined in
25 RCW 9.94A.030.

26 (6) "County" means a county or combination of counties.

27 ~~((+6))~~ (7) "Department" means the department of corrections.

1 (~~(7)~~) (8) "Earned early release" means earned release as
2 authorized by RCW 9.94A.728.

3 (~~(8)~~) (9) "Evidence-based" means a program or practice that has
4 had multiple-site random controlled trials across heterogeneous
5 populations demonstrating that the program or practice is effective in
6 reducing recidivism for the population.

7 (~~(9)~~) (10) "Extended family visit" means an authorized visit
8 between an inmate and a member of his or her immediate family that
9 occurs in a private visiting unit located at the correctional facility
10 where the inmate is confined.

11 (~~(10)~~) (11) "Good conduct" means compliance with department
12 rules and policies.

13 (~~(11)~~) (12) "Good performance" means successful completion of a
14 program required by the department, including an education, work, or
15 other program.

16 (~~(12)~~) (13) "Immediate family" means the inmate's children,
17 stepchildren, grandchildren, great grandchildren, parents,
18 stepparents, grandparents, great grandparents, siblings, and a person
19 legally married to or in a state registered domestic partnership with
20 an inmate. "Immediate family" does not include an inmate adopted by
21 another inmate or the immediate family of the adopted or adopting
22 inmate.

23 (~~(13)~~) (14) "Indigent inmate," "indigent," and "indigency" mean
24 an inmate who has less than a ten-dollar balance of disposable income
25 in his or her institutional account on the day a request is made to
26 utilize funds and during the thirty days previous to the request.

27 (~~(14)~~) (15) "Individual reentry plan" means the plan to prepare
28 an offender for release into the community. It should be developed
29 collaboratively between the department and the offender and based on
30 an assessment of the offender using a standardized and comprehensive
31 tool to identify the offender's risks and needs. The individual
32 reentry plan describes actions that should occur to prepare individual
33 offenders for release from prison or jail, specifies the supervision
34 and services they will experience in the community, and describes an

1 offender's eventual discharge to aftercare upon successful completion
2 of supervision. An individual reentry plan is updated throughout the
3 period of an offender's incarceration and supervision to be relevant
4 to the offender's current needs and risks.

5 ~~((+15+))~~ (16) "Inmate" means a person committed to the custody of
6 the department, including but not limited to persons residing in a
7 correctional institution or facility and persons released from such
8 facility on furlough, work release, or community custody, and persons
9 received from another state, state agency, county, or federal
10 jurisdiction.

11 ~~((+16+))~~ (17) "Labor" means the period of time before a birth
12 during which contractions are of sufficient frequency, intensity, and
13 duration to bring about effacement and progressive dilation of the
14 cervix.

15 (18) "Physical restraint" means the use of any bodily force or
16 physical intervention to control an offender or limit an offender's
17 freedom of movement in a way that does not involve a mechanical
18 restraint. Physical restraint does not include momentary periods of
19 minimal physical restriction by direct person-to-person contact,
20 without the aid of mechanical restraint, accomplished with limited
21 force and designed to:

22 (a) Prevent an offender from completing an act that would result
23 in potential bodily harm to self or others or damage property;

24 (b) Remove a disruptive offender who is unwilling to leave the
25 area voluntarily; or

26 (c) Guide an offender from one location to another.

27 (19) "Postpartum recovery" means (a) the entire period a woman or
28 youth is in the hospital, birthing center, or clinic after giving
29 birth and (b) an additional time period, if any, a treating physician
30 determines is necessary for healing after the woman or youth leaves
31 the hospital, birthing center, or clinic.

32 (20) "Privilege" means any goods or services, education or work
33 programs, or earned early release days, the receipt of which are
34 directly linked to an inmate's (a) good conduct; and (b) good

1 performance. Privileges do not include any goods or services the
2 department is required to provide under the state or federal
3 Constitution or under state or federal law.

4 ~~((+17+))~~ (21) "Promising practice" means a practice that presents,
5 based on preliminary information, potential for becoming a
6 research-based or consensus-based practice.

7 ~~((+18+))~~ (22) "Research-based" means a program or practice that
8 has some research demonstrating effectiveness, but that does not yet
9 meet the standard of evidence-based practices.

10 ~~((+19+))~~ (23) "Restraints" means anything used to control the
11 movement of a person's body or limbs and includes:

12 (a) Physical restraint; or

13 (b) Mechanical device including but not limited to: Metal
14 handcuffs, plastic ties, ankle restraints, leather cuffs, other
15 hospital-type restraints, tasers, or batons.

16 (24) "Secretary" means the secretary of corrections or his or her
17 designee.

18 ~~((+20+))~~ (25) "Significant expansion" includes any expansion into
19 a new product line or service to the class I business that results
20 from an increase in benefits provided by the department, including a
21 decrease in labor costs, rent, or utility rates (for water, sewer,
22 electricity, and disposal), an increase in work program space, tax
23 advantages, or other overhead costs.

24 ~~((+21+))~~ (26) "Superintendent" means the superintendent of a
25 correctional facility under the jurisdiction of the Washington state
26 department of corrections, or his or her designee.

27 ~~((+22+))~~ (27) "Transportation" means the conveying, by any means,
28 of an incarcerated pregnant woman or youth from the correctional
29 facility to another location from the moment she leaves the
30 correctional facility to the time of arrival at the other location,
31 and includes the escorting of the pregnant incarcerated woman or youth
32 from the correctional facility to a transport vehicle and from the
33 vehicle to the other location.

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1 (28) "Unfair competition" means any net competitive advantage that
2 a business may acquire as a result of a correctional industries
3 contract, including labor costs, rent, tax advantages, utility rates
4 (water, sewer, electricity, and disposal), and other overhead costs.
5 To determine net competitive advantage, the correctional industries
6 board shall review and quantify any expenses unique to operating a
7 for-profit business inside a prison.

8 (~~(23)~~) (29) "Vocational training" or "vocational education"
9 means "vocational education" as defined in RCW 72.62.020.

10 (~~(24)~~) (30) "Washington business" means an in-state manufacturer
11 or service provider subject to chapter 82.04 RCW existing on June 10,
12 2004.

13 (~~(25)~~) (31) "Work programs" means all classes of correctional
14 industries jobs authorized under RCW 72.09.100.

15
16 NEW SECTION. **Sec. 2.** (1) Except in extraordinary circumstances,
17 no restraints of any kind may be used on any pregnant woman or youth
18 incarcerated in a correctional facility during transportation to and
19 from visits to medical providers and court proceedings during the
20 third trimester of her pregnancy, or during postpartum recovery. For
21 purposes of this section, "extraordinary circumstances" exist where a
22 corrections officer makes an individualized determination that
23 restraints are necessary to prevent an incarcerated pregnant woman or
24 youth from escaping, or from injuring herself, medical or correctional
25 personnel, or others. In the event the corrections officer determines
26 that extraordinary circumstances exist and restraints are used, the
27 corrections officer must fully document in writing the reasons that he
28 or she determined such extraordinary circumstances existed such that
29 restraints were used. As part of this documentation, the corrections
30 officer must also include the kind of restraints used and the reasons
31 those restraints were considered the least restrictive available and
32 the most reasonable under the circumstances.

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1 (2) While the pregnant woman or youth is in labor or in childbirth
2 no restraints of any kind may be used unless specifically requested by
3 medical personnel.

4 (3) Anytime restraints are permitted to be used on a pregnant
5 woman or youth, the restraints must be the least restrictive available
6 and the most reasonable under the circumstances, but in no case shall
7 leg irons or waist chains be used on any woman or youth known to be
8 pregnant.

9 (4) No correctional personnel shall be present in the room during
10 the pregnant woman's or youth's labor or childbirth, unless
11 specifically requested by medical personnel. If the employee's
12 presence is requested by medical personnel, the employee should be
13 female, if practicable.

14 (5) If the doctor, nurse, or other health professional treating
15 the pregnant woman or youth requests that restraints not be used, the
16 corrections officer accompanying the pregnant woman or youth shall
17 immediately remove all restraints.

18
19 NEW SECTION. **Sec. 3.** (1) The secretary shall provide an
20 informational packet about the requirements of this act to all medical
21 staff and nonmedical staff who are involved in the transportation of
22 women and youth who are pregnant, as well as such other staff as the
23 secretary deems appropriate. The informational packet provided to
24 staff under this section shall be developed as provided in section 13
25 of this act.

26 (2) The secretary shall cause the requirements of this act to be
27 provided to all women or youth who are pregnant, at the time the
28 department assumes custody of the person. In addition, the secretary
29 shall cause a notice containing the requirements of this act to be
30 posted in conspicuous locations in the correctional facilities,
31 including but not limited to the locations in which medical care is
32 provided within the facilities.

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1 **Sec. 4.** RCW 70.48.020 and 2009 c 411 s 3 are each reenacted and
2 amended to read as follows:

3 As used in this chapter the words and phrases in this section
4 shall have the meanings indicated unless the context clearly requires
5 otherwise.

6 (1) "Administration" means the direct application of a drug
7 whether by ingestion or inhalation, to the body of an inmate by a
8 practitioner or nonpractitioner jail personnel.

9 (2) "Correctional facility" means a facility operated by a
10 governing unit primarily designed, staffed, and used for the housing
11 of adult persons serving terms not exceeding one year for the purposes
12 of punishment, correction, and rehabilitation following conviction of
13 a criminal offense.

14 (3) "Deliver" or "delivery" means the actual, constructive, or
15 attempted transfer from one person to another of medication whether or
16 not there is an agency relationship.

17 (4) "Detention facility" means a facility operated by a governing
18 unit primarily designed, staffed, and used for the temporary housing
19 of adult persons charged with a criminal offense prior to trial or
20 sentencing and for the housing of adult persons for purposes of
21 punishment and correction after sentencing or persons serving terms
22 not to exceed ninety days.

23 (5) "Drug" and "legend drug" have the same meanings as provided in
24 RCW 69.41.010.

25 (6) "Governing unit" means the city and/or county or any
26 combinations of cities and/or counties responsible for the operation,
27 supervision, and maintenance of a jail.

28 (7) "Health care" means preventive, diagnostic, and rehabilitative
29 services provided by licensed health care professionals and/or
30 facilities; such care to include providing prescription drugs where
31 indicated.

32 (8) "Holding facility" means a facility operated by a governing
33 unit primarily designed, staffed, and used for the temporary housing
34 of adult persons charged with a criminal offense prior to trial or

1 sentencing and for the temporary housing of such persons during or
2 after trial and/or sentencing, but in no instance shall the housing
3 exceed thirty days.

4 (9) "Jail" means any holding, detention, special detention, or
5 correctional facility as defined in this section.

6 (10) "Labor" means the period of time before a birth during which
7 contractions are of sufficient frequency, intensity, and duration to
8 bring about effacement and progressive dilation of the cervix.

9 (11) "Major urban" means a county or combination of counties which
10 has a city having a population greater than twenty-six thousand based
11 on the 1978 projections of the office of financial management.

12 ~~((11))~~ (12) "Medication" means a drug, legend drug, or
13 controlled substance requiring a prescription or an over-the-counter
14 or nonprescription drug.

15 ~~((12))~~ (13) "Medication assistance" means assistance rendered by
16 nonpractitioner jail personnel to an inmate residing in a jail to
17 facilitate the individual's self-administration of a legend drug or
18 controlled substance or nonprescription medication. "Medication
19 assistance" includes reminding or coaching the individual, handing the
20 medication container to the individual, opening the individual's
21 medication container, using an enabler, or placing the medication in
22 the individual's hand.

23 ~~((13))~~ (14) "Medium urban" means a county or combination of
24 counties which has a city having a population equal to or greater than
25 ten thousand but less than twenty-six thousand based on the 1978
26 projections of the office of financial management.

27 ~~((14))~~ (15) "Nonpractitioner jail personnel" means appropriately
28 trained staff who are authorized to manage, deliver, or administer
29 prescription and nonprescription medication under RCW 70.48.490.

30 ~~((15))~~ (16) "Office" means the office of financial management.

31 ~~((16))~~ (17) "Physical restraint" means the use of any bodily
32 force or physical intervention to control an offender or limit an
33 offender's freedom of movement in a way that does not involve a
34 mechanical restraint. Physical restraint does not include momentary

1 periods of minimal physical restriction by direct person-to-person
2 contact, without the aid of mechanical restraint, accomplished with
3 limited force and designed to:

4 (a) Prevent an offender from completing an act that would result
5 in potential bodily harm to self or others or damage property;

6 (b) Remove a disruptive offender who is unwilling to leave the
7 area voluntarily; or

8 (c) Guide an offender from one location to another.

9 (18) "Postpartum recovery" means (a) the entire period a woman or
10 youth is in the hospital, birthing center, or clinic after giving
11 birth and (b) an additional time period, if any, a treating physician
12 determines is necessary for healing after the woman or youth leaves
13 the hospital, birthing center, or clinic.

14 (19) "Practitioner" has the same meaning as provided in RCW
15 69.41.010.

16 ~~((+17))~~ (20) "Restraints" means anything used to control the
17 movement of a person's body or limbs and includes:

18 (a) Physical restraint; or

19 (b) Mechanical device including but not limited to: Metal
20 handcuffs, plastic ties, ankle restraints, leather cuffs, other
21 hospital-type restraints, tasers, or batons.

22 (21) "Rural" means a county or combination of counties which has a
23 city having a population less than ten thousand based on the 1978
24 projections of the office of financial management.

25 ~~((+18))~~ (22) "Special detention facility" means a minimum
26 security facility operated by a governing unit primarily designed,
27 staffed, and used for the housing of special populations of sentenced
28 persons who do not require the level of security normally provided in
29 detention and correctional facilities including, but not necessarily
30 limited to, persons convicted of offenses under RCW 46.61.502 or
31 46.61.504.

32 (23) "Transportation" means the conveying, by any means, of an
33 incarcerated pregnant woman or youth from the correctional facility or
34 any facility covered by this chapter to another location from the

1 moment she leaves the correctional facility or any facility covered by
2 this chapter to the time of arrival at the other location, and
3 includes the escorting of the pregnant incarcerated woman or youth
4 from the correctional facility or facility covered by this chapter to
5 a transport vehicle and from the vehicle to the other location.

6
7 NEW SECTION. **Sec. 5.** (1) Except in extraordinary circumstances,
8 no restraints of any kind may be used on any pregnant woman or youth
9 incarcerated in a correctional facility or any facility covered by
10 this chapter during transportation to and from visits to medical
11 providers and court proceedings during the third trimester of her
12 pregnancy, or during postpartum recovery. For purposes of this
13 section, "extraordinary circumstances" exist where a corrections
14 officer or employee of the correctional facility or any facility
15 covered by this chapter makes an individualized determination that
16 restraints are necessary to prevent an incarcerated pregnant woman or
17 youth from escaping, or from injuring herself, medical or correctional
18 personnel, or others. In the event the corrections officer or employee
19 of the correctional facility or any facility covered by this chapter
20 determines that extraordinary circumstances exist and restraints are
21 used, the corrections officer or employee must fully document in
22 writing the reasons that he or she determined such extraordinary
23 circumstances existed such that restraints were used. As part of this
24 documentation, the corrections officer or employee must also include
25 the kind of restraints used and the reasons those restraints were
26 considered the least restrictive available and the most reasonable
27 under the circumstances.

28 (2) While the pregnant woman or youth is in labor or in childbirth
29 no restraints of any kind may be used unless specifically requested by
30 medical personnel.

31 (3) Anytime restraints are permitted to be used on a pregnant
32 woman or youth, the restraints must be the least restrictive available
33 and the most reasonable under the circumstances, but in no case shall
34

1 leg irons or waist chains be used on any woman or youth known to be
2 pregnant.

3 (4) No correctional personnel or employee of the correctional
4 facility or any facility covered by this chapter shall be present in
5 the room during the pregnant woman's or youth's labor or childbirth,
6 unless specifically requested by medical personnel. If the employee's
7 presence is requested by medical personnel, the employee should be
8 female, if practicable.

9 (5) If the doctor, nurse, or other health professional treating
10 the pregnant woman or youth requests that restraints not be used, the
11 corrections officer accompanying the pregnant woman or youth shall
12 immediately remove all restraints.

13

14 NEW SECTION. **Sec. 6.** (1) The jail administrator or his or her
15 designee or chief law enforcement executive or his or her designee
16 shall provide notice of the requirements of this act to the
17 appropriate staff at a correctional facility or a facility covered by
18 this chapter. Appropriate staff shall include all medical staff and
19 staff who are involved in the transportation of pregnant woman and
20 youth as well as such other staff deemed appropriate.

21 (2) The jail administrator or his or her designee or chief law
22 enforcement executive or his or her designee shall cause the
23 requirements of this act to be provided to all woman and youth of
24 child bearing age at intake. In addition, the jail administrator or
25 his or her designee or chief law enforcement executive or his or her
26 designee shall cause a notice containing the requirements of this act
27 to be posted in locations in which medical care is provided within the
28 facilities.

29

30 **Sec. 7.** RCW 72.05.020 and 1998 c 269 s 2 are each amended to read
31 as follows:

32 As used in this chapter, unless the context requires otherwise:

33 (1) "Community facility" means a group care facility operated for
34 the care of juveniles committed to the department under RCW 13.40.185.

1 A county detention facility that houses juveniles committed to the
2 department under RCW 13.40.185 pursuant to a contract with the
3 department is not a community facility.

4 (2) "Department" means the department of social and health
5 services.

6 (3) "Juvenile" means a person under the age of twenty-one who has
7 been sentenced to a term of confinement under the supervision of the
8 department under RCW 13.40.185.

9 (4) "Labor" means the period of time before a birth during which
10 contractions are of sufficient frequency, intensity, and duration to
11 bring about effacement and progressive dilation of the cervix.

12 (5) "Physical restraint" means the use of any bodily force or
13 physical intervention to control an offender or limit a juvenile
14 offender's freedom of movement in a way that does not involve a
15 mechanical restraint. Physical restraint does not include momentary
16 periods of minimal physical restriction by direct person-to-person
17 contact, without the aid of mechanical restraint, accomplished with
18 limited force and designed to:

19 (a) Prevent a juvenile offender from completing an act that would
20 result in potential bodily harm to self or others or damage property;

21 (b) Remove a disruptive juvenile offender who is unwilling to
22 leave the area voluntarily; or

23 (c) Guide a juvenile offender from one location to another.

24 (6) "Postpartum recovery" means (a) the entire period a youth is in
25 the hospital, birthing center, or clinic after giving birth and (b) an
26 additional time period, if any, a treating physician determines is
27 necessary for healing after the youth leaves the hospital, birthing
28 center, or clinic.

29 (7) "Restraints" means anything used to control the movement of a
30 person's body or limbs and includes:

31 (a) Physical restraint; or

32 (b) Mechanical device including but not limited to: Metal
33 handcuffs, plastic ties, ankle restraints, leather cuffs, other
34 hospital-type restraints, tasers, or batons.

1 (8) "Service provider" means the entity that operates a community
2 facility.

3 (9) "Transportation" means the conveying, by any means, of an
4 incarcerated pregnant woman or youth from the institution or community
5 facility to another location from the moment she leaves the
6 institution or community facility to the time of arrival at the other
7 location, and includes the escorting of the pregnant incarcerated
8 woman or youth from the institution or community facility to a
9 transport vehicle and from the vehicle to the other location.

10
11 NEW SECTION. **Sec. 8.** (1) Except in extraordinary circumstances,
12 no restraints of any kind may be used on any pregnant youth in an
13 institution or a community facility covered by this chapter during
14 transportation to and from visits to medical providers and court
15 proceedings during the third trimester of her pregnancy, or during
16 postpartum recovery. For purposes of this section, "extraordinary
17 circumstances" exist where an employee of an institution or community
18 facility covered by this chapter makes an individualized determination
19 that restraints are necessary to prevent an incarcerated pregnant
20 youth from escaping, or from injuring herself, medical or correctional
21 personnel, or others. In the event an employee of an institution or
22 community facility covered by this chapter determines that
23 extraordinary circumstances exist and restraints are used, the
24 corrections officer or employee must fully document in writing the
25 reasons that he or she determined such extraordinary circumstances
26 existed such that restraints were used. As part of this documentation,
27 the employee of an institution or community facility covered by this
28 chapter must also include the kind of restraints used and the reasons
29 those restraints were considered the least restrictive available and
30 the most reasonable under the circumstances.

31 (2) While the pregnant woman or youth is in labor or in childbirth
32 no restraints of any kind may be used unless specifically requested by
33 medical personnel.

1 (3) Anytime restraints are permitted to be used on a pregnant
2 youth, the restraints must be the least restrictive available and the
3 most reasonable under the circumstances, but in no case shall leg
4 irons or waist chains be used on any youth known to be pregnant.

5 (4) No employee of the institution or community facility shall be
6 present in the room during the pregnant youth's labor or childbirth,
7 unless specifically requested by medical personnel. If the employee's
8 presence is requested by medical personnel, the employee should be
9 female, if practicable.

10 (5) If the doctor, nurse, or other health professional treating
11 the pregnant woman or youth requests that restraints not be used, the
12 corrections officer accompanying the pregnant woman or youth shall
13 immediately remove all restraints.

14

15 NEW SECTION. **Sec. 9.** (1) The secretary shall provide an
16 informational packet about the requirements of this act to all medical
17 staff and nonmedical staff of the institution or community facility
18 who are involved in the transportation of youth who are pregnant, as
19 well as such other staff as the secretary deems appropriate. The
20 informational packet provided to staff under this section shall be
21 developed as provided in section 13 of this act.

22 (2) The secretary shall cause the requirements of this act to be
23 provided to all youth who are pregnant, at the time the secretary
24 assumes custody of the person. In addition, the secretary shall cause
25 a notice containing the requirements of this act to be posted in
26 conspicuous locations in the institutions or community facilities,
27 including but not limited to the locations in which medical care is
28 provided within the facilities.

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30 **Sec. 10.** RCW 13.40.020 and 2009 c 454 s 2 are each amended to
31 read as follows:

32 For the purposes of this chapter:

33 (1) "Community-based rehabilitation" means one or more of the
34 following: Employment; attendance of information classes; literacy

1 classes; counseling, outpatient substance abuse treatment programs,
2 outpatient mental health programs, anger management classes, education
3 or outpatient treatment programs to prevent animal cruelty, or other
4 services; or attendance at school or other educational programs
5 appropriate for the juvenile as determined by the school district.
6 Placement in community-based rehabilitation programs is subject to
7 available funds;

8 (2) "Community-based sanctions" may include one or more of the
9 following:

10 (a) A fine, not to exceed five hundred dollars;

11 (b) Community restitution not to exceed one hundred fifty hours of
12 community restitution;

13 (3) "Community restitution" means compulsory service, without
14 compensation, performed for the benefit of the community by the
15 offender as punishment for committing an offense. Community
16 restitution may be performed through public or private organizations
17 or through work crews;

18 (4) "Community supervision" means an order of disposition by the
19 court of an adjudicated youth not committed to the department or an
20 order granting a deferred disposition. A community supervision order
21 for a single offense may be for a period of up to two years for a sex
22 offense as defined by RCW 9.94A.030 and up to one year for other
23 offenses. As a mandatory condition of any term of community
24 supervision, the court shall order the juvenile to refrain from
25 committing new offenses. As a mandatory condition of community
26 supervision, the court shall order the juvenile to comply with the
27 mandatory school attendance provisions of chapter 28A.225 RCW and to
28 inform the school of the existence of this requirement. Community
29 supervision is an individualized program comprised of one or more of
30 the following:

31 (a) Community-based sanctions;

32 (b) Community-based rehabilitation;

33 (c) Monitoring and reporting requirements;

34 (d) Posting of a probation bond;

1 (5) "Confinement" means physical custody by the department of
2 social and health services in a facility operated by or pursuant to a
3 contract with the state, or physical custody in a detention facility
4 operated by or pursuant to a contract with any county. The county may
5 operate or contract with vendors to operate county detention
6 facilities. The department may operate or contract to operate
7 detention facilities for juveniles committed to the department.
8 Pretrial confinement or confinement of less than thirty-one days
9 imposed as part of a disposition or modification order may be served
10 consecutively or intermittently, in the discretion of the court;

11 (6) "Court," when used without further qualification, means the
12 juvenile court judge(s) or commissioner(s);

13 (7) "Criminal history" includes all criminal complaints against
14 the respondent for which, prior to the commission of a current
15 offense:

16 (a) The allegations were found correct by a court. If a
17 respondent is convicted of two or more charges arising out of the same
18 course of conduct, only the highest charge from among these shall
19 count as an offense for the purposes of this chapter; or

20 (b) The criminal complaint was diverted by a prosecutor pursuant
21 to the provisions of this chapter on agreement of the respondent and
22 after an advisement to the respondent that the criminal complaint
23 would be considered as part of the respondent's criminal history. A
24 successfully completed deferred adjudication that was entered before
25 July 1, 1998, or a deferred disposition shall not be considered part
26 of the respondent's criminal history;

27 (8) "Department" means the department of social and health
28 services;

29 (9) "Detention facility" means a county facility, paid for by the
30 county, for the physical confinement of a juvenile alleged to have
31 committed an offense or an adjudicated offender subject to a
32 disposition or modification order. "Detention facility" includes
33 county group homes, inpatient substance abuse programs, juvenile basic
34 training camps, and electronic monitoring;

1 (10) "Diversion unit" means any probation counselor who enters
2 into a diversion agreement with an alleged youthful offender, or any
3 other person, community accountability board, youth court under the
4 supervision of the juvenile court, or other entity except a law
5 enforcement official or entity, with whom the juvenile court
6 administrator has contracted to arrange and supervise such agreements
7 pursuant to RCW 13.40.080, or any person, community accountability
8 board, or other entity specially funded by the legislature to arrange
9 and supervise diversion agreements in accordance with the requirements
10 of this chapter. For purposes of this subsection, "community
11 accountability board" means a board comprised of members of the local
12 community in which the juvenile offender resides. The superior court
13 shall appoint the members. The boards shall consist of at least three
14 and not more than seven members. If possible, the board should
15 include a variety of representatives from the community, such as a law
16 enforcement officer, teacher or school administrator, high school
17 student, parent, and business owner, and should represent the cultural
18 diversity of the local community;

19 (11) "Foster care" means temporary physical care in a foster
20 family home or group care facility as defined in RCW 74.15.020 and
21 licensed by the department, or other legally authorized care;

22 (12) "Institution" means a juvenile facility established pursuant
23 to chapters 72.05 and 72.16 through 72.20 RCW;

24 (13) "Intensive supervision program" means a parole program that
25 requires intensive supervision and monitoring, offers an array of
26 individualized treatment and transitional services, and emphasizes
27 community involvement and support in order to reduce the likelihood a
28 juvenile offender will commit further offenses;

29 (14) "Juvenile," "youth," and "child" mean any individual who is
30 under the chronological age of eighteen years and who has not been
31 previously transferred to adult court pursuant to RCW 13.40.110,
32 unless the individual was convicted of a lesser charge or acquitted of
33 the charge for which he or she was previously transferred pursuant to
34 RCW 13.40.110 or who is not otherwise under adult court jurisdiction;

1 (15) "Juvenile offender" means any juvenile who has been found by
2 the juvenile court to have committed an offense, including a person
3 eighteen years of age or older over whom jurisdiction has been
4 extended under RCW 13.40.300;

5 (16) "Labor" means the period of time before a birth during which
6 contractions are of sufficient frequency, intensity, and duration to
7 bring about effacement and progressive dilation of the cervix;

8 (17) "Local sanctions" means one or more of the following: (a) 0-
9 30 days of confinement; (b) 0-12 months of community supervision; (c)
10 0-150 hours of community restitution; or (d) \$0-\$500 fine;

11 ~~((+17))~~ (18) "Manifest injustice" means a disposition that would
12 either impose an excessive penalty on the juvenile or would impose a
13 serious, and clear danger to society in light of the purposes of this
14 chapter;

15 ~~((+18))~~ (19) "Monitoring and reporting requirements" means one or
16 more of the following: Curfews; requirements to remain at home,
17 school, work, or court-ordered treatment programs during specified
18 hours; restrictions from leaving or entering specified geographical
19 areas; requirements to report to the probation officer as directed and
20 to remain under the probation officer's supervision; and other
21 conditions or limitations as the court may require which may not
22 include confinement;

23 ~~((+19))~~ (20) "Offense" means an act designated a violation or a
24 crime if committed by an adult under the law of this state, under any
25 ordinance of any city or county of this state, under any federal law,
26 or under the law of another state if the act occurred in that state;

27 ~~((+20))~~ (21) "Physical restraint" means the use of any bodily
28 force or physical intervention to control a juvenile offender or limit
29 a juvenile offender's freedom of movement in a way that does not
30 involve a mechanical restraint. Physical restraint does not include
31 momentary periods of minimal physical restriction by direct person-to-
32 person contact, without the aid of mechanical restraint, accomplished
33 with limited force and designed to:

34

1 (a) Prevent a juvenile offender from completing an act that would
2 result in potential bodily harm to self or others or damage property;

3 (b) Remove a disruptive juvenile offender who is unwilling to
4 leave the area voluntarily; or

5 (c) Guide the juvenile offender from one location to another.

6 (22) "Postpartum recovery" means (a) the entire period a woman or
7 youth is in the hospital, birthing center, or clinic after giving
8 birth and (b) an additional time period, if any, a treating physician
9 determines is necessary for healing after the youth leaves the
10 hospital, birthing center, or clinic;

11 (23) "Probation bond" means a bond, posted with sufficient
12 security by a surety justified and approved by the court, to secure
13 the offender's appearance at required court proceedings and compliance
14 with court-ordered community supervision or conditions of release
15 ordered pursuant to RCW 13.40.040 or 13.40.050. It also means a
16 deposit of cash or posting of other collateral in lieu of a bond if
17 approved by the court;

18 ~~((+21))~~ (24) "Respondent" means a juvenile who is alleged or
19 proven to have committed an offense;

20 ~~((+22))~~ (25) "Restitution" means financial reimbursement by the
21 offender to the victim, and shall be limited to easily ascertainable
22 damages for injury to or loss of property, actual expenses incurred
23 for medical treatment for physical injury to persons, lost wages
24 resulting from physical injury, and costs of the victim's counseling
25 reasonably related to the offense. Restitution shall not include
26 reimbursement for damages for mental anguish, pain and suffering, or
27 other intangible losses. Nothing in this chapter shall limit or
28 replace civil remedies or defenses available to the victim or
29 offender;

30 ~~((+23))~~ (26) "Restraints" means anything used to control the
31 movement of a person's body or limbs and includes:

32 (a) Physical restraint; or

33 (b) Mechanical device including but not limited to: Metal
34 handcuffs, plastic ties, ankle restraints, leather cuffs, other

1 hospital-type restraints, tasers, or batons;

2 (27) "Secretary" means the secretary of the department of social
3 and health services. "Assistant secretary" means the assistant
4 secretary for juvenile rehabilitation for the department;

5 ~~((+24))~~ (28) "Services" means services which provide alternatives
6 to incarceration for those juveniles who have pleaded or been
7 adjudicated guilty of an offense or have signed a diversion agreement
8 pursuant to this chapter;

9 ~~((+25))~~ (29) "Sex offense" means an offense defined as a sex
10 offense in RCW 9.94A.030;

11 ~~((+26))~~ (30) "Sexual motivation" means that one of the purposes
12 for which the respondent committed the offense was for the purpose of
13 his or her sexual gratification;

14 ~~((+27))~~ (31) "Surety" means an entity licensed under state
15 insurance laws or by the state department of licensing, to write
16 corporate, property, or probation bonds within the state, and
17 justified and approved by the superior court of the county having
18 jurisdiction of the case;

19 ~~((+28))~~ (32) "Transportation" means the conveying, by any means,
20 of an incarcerated pregnant youth from the institution or detention
21 facility to another location from the moment she leaves the
22 institution or detention facility to the time of arrival at the other
23 location, and includes the escorting of the pregnant incarcerated
24 woman or youth from the institution or detention facility to a
25 transport vehicle and from the vehicle to the other location.

26 (33) "Violation" means an act or omission, which if committed by
27 an adult, must be proven beyond a reasonable doubt, and is punishable
28 by sanctions which do not include incarceration;

29 ~~((+29))~~ (34) "Violent offense" means a violent offense as defined
30 in RCW 9.94A.030;

31 ~~((+30))~~ (35) "Youth court" means a diversion unit under the
32 supervision of the juvenile court.

33

34

1 NEW SECTION. **Sec. 11.** (1) Except in extraordinary circumstances,
2 no restraints of any kind may be used on any pregnant youth in an
3 institution or detention facility covered by this chapter during
4 transportation to and from visits to medical providers and court
5 proceedings during the third trimester of her pregnancy, or during
6 postpartum recovery. For purposes of this section, "extraordinary
7 circumstances" exist where an employee at an institution or detention
8 facility makes an individualized determination that restraints are
9 necessary to prevent an incarcerated pregnant youth from escaping, or
10 from injuring herself, medical or correctional personnel, or others.
11 In the event the employee of the institution or detention facility
12 determines that extraordinary circumstances exist and restraints are
13 used, the employee of the institution or detention facility must fully
14 document in writing the reasons that he or she determined such
15 extraordinary circumstances existed such that restraints were used. As
16 part of this documentation, the employee of the institution or
17 detention facility must also include the kind of restraints used and
18 the reasons those restraints were considered the least restrictive
19 available and the most reasonable under the circumstances.

20 (2) While the pregnant youth is in labor or in childbirth no
21 restraints of any kind may be used unless specifically requested by
22 medical personnel.

23 (3) Anytime restraints are permitted to be used on a pregnant
24 youth, the restraints must be the least restrictive available and the
25 most reasonable under the circumstances, but in no case shall leg
26 irons or waist chains be used on any youth known to be pregnant.

27 (4) No employee of the institution or detention facility shall be
28 present in the room during the pregnant youth's labor or childbirth,
29 unless specifically requested by medical personnel. If the employee's
30 presence is requested by medical personnel, the employee should be
31 female, if practicable.

32 (5) If the doctor, nurse, or other health professional treating
33 the pregnant youth requests that restraints not be used, the employee
34

1 of the institution or detention facility accompanying the pregnant
2 youth shall immediately remove all restraints.

3

4 NEW SECTION. **Sec. 12.** (1) The director of the juvenile detention
5 facility shall provide an informational packet about the requirements
6 of this act to all medical staff and nonmedical staff who are involved
7 in the transportation of youth who are pregnant, as well as such other
8 staff as appropriate. The informational packet provided to staff
9 under this section shall be developed as provided in section 13 of
10 this act.

11 (2) The director shall cause the requirements of this act to be
12 provided to all youth who are pregnant, at the time the facility
13 assumes custody of the person. In addition, the facility shall cause
14 a notice containing the requirements of this act to be posted in
15 conspicuous locations in the detention facilities, including but not
16 limited to the locations in which medical care is provided within the
17 facilities.

18

19 NEW SECTION. **Sec. 13.** The Washington association of sheriffs and
20 police chiefs, the department of corrections, the department of social
21 and health services, juvenile rehabilitation administration, and the
22 criminal justice training commission shall jointly develop an
23 informational packet on the requirements of this act. The packet
24 shall be ready for distribution no later than September 1, 2010.

25

26 NEW SECTION. **Sec. 14.** Sections 2 and 3 of this act are each
27 added to chapter 72.09 RCW.

28

29 NEW SECTION. **Sec. 15.** Sections 5, 6, and 13 of this act are each
30 added to chapter 70.48 RCW.

31

32 NEW SECTION. **Sec. 16.** Sections 8 and 9 of this act are each
33 added to chapter 72.05 RCW.

34

1 NEW SECTION. **Sec. 17.** Sections 11 and 12 of this act are each
2 added to chapter 13.40 RCW."

3
4 EFFECT: Adds a definition of "transportation."
5 Provides that no institution or facility personnel will be present
6 in the room during labor or childbirth unless requested by medical
7 personnel.

8 For jails, any woman or youth of child bearing age must be given
9 information about the requirements of this act. Jails must
10 conspicuously post the requirements of this act in the areas where
11 medical care is given.

12 The terms "delivering her baby" is changed to "childbirth". In the
13 definition of "physical restraint" an exception is made to allow a
14 correctional officer or employee to guide the pregnant woman or youth
15 from one location to another.

16 Clarifies that when it is permissible to use restraints on
17 pregnant women and youth, leg irons and waist chains cannot be used on
18 any woman or youth known to be pregnant.

19 In the instances in which exceptional circumstances are found to
20 allow restraints to be used on a woman or youth in her third trimester
21 of pregnancy during transport, there must be written documentation
22 about why restraints needed to be used and the kind of restraints that
23 were actually used.

--- END ---

EFFECT:

--- END ---